



THE COMMONWEALTH OF MASSACHUSETTS  
OFFICE OF CAMPAIGN & POLITICAL FINANCE

ONE ASHBURTON PLACE ROOM 411  
BOSTON MASSACHUSETTS 02108

MICHAEL J. SULLIVAN  
DIRECTOR

TEL: (617) 727-8352  
(800) 462-OCPF  
FAX: (617) 727-6549

November 21, 1997  
AO-97-19A

Dr. Carl DiGregorio  
8 Princess Pine Lane  
Milford, MA 01757

Re: Establishment of Louis Bertonazzi Foundation

Dear Dr. DiGregorio:

This letter is in response to your October 10 request for answers to several follow-up questions to Advisory Opinion AO-97-19. I will answer each question separately.

**1(a). I understand that Louis Bertonazzi may not serve as a member of the board of the Foundation. Would it be permissible for him to serve as an honorary or ex-officio non-voting member on the board?**

Yes. Serving in the described capacity would be consistent with M.G.L. c. 55, s. 6 and OCPF regulations.

In AO-95-02 the office stated that residual funds could be transferred to a trust even if the deceased candidate's son was an honorary board member of the trust. In reaching that conclusion, the office stated that given the nature of the trust, "honorary board members" did not control disposition of the funds transferred to the trust. In addition, honorary board members did not personally benefit from the transfer. Therefore, the transfer did not involve personal use of campaign funds, which would have been prohibited by section 6.

As an honorary or ex-officio member of the board, I assume that the candidate will not be able to direct how the Foundation's funds will be used or otherwise be involved in the day-to-day operations of the Foundation. In addition, the candidate would not be a trustee, officer, principal or beneficiary. Therefore, he may serve as an honorary or ex-officio board member. See AO-97-19 and 970 C.M.R. 2.06(3)(a).

**1(b). Would it be possible for his family members to serve in either a formal or honorary membership on the board?**

Although family members may serve as honorary board members, they may not serve as official board members.

As discussed in my September 24 letter, a candidate may not be related to any trustee, officer, principal or beneficiary of a charitable entity receiving donations from the candidate's committee. Board members of a charitable trust should be considered "trustees." See 970 CMR 2.06(3)(a)(2).

**2. I understand that Committee members may not serve as members of the board of the Foundation. Assuming that a Committee member wished to resign from the Committee to assume membership on the board of the Foundation, does G.L. c. 55 prescribe a minimum waiting period after resignation prior to assuming membership on the board of the Foundation?**

The applicable regulation indicates that "neither the candidate, treasurer nor any other officer of the committee" may serve on the board of the Foundation. 970 CMR 2.06(3)(a)1. It does not prohibit members of the committee from serving on the board, if the members are not officers of the committee. Some, but not all, committees have members who are not officers.

The law does not impose a minimum waiting period for members who resign from the committee and thereafter wish to assume membership on the board of the Foundation. I suggest, however, that caution be used if such action is taken by a member of the committee, to avoid any impropriety or the appearance of impropriety, i.e., the Foundation could implement a waiting period policy.

**3. The Committee desires to minimize administrative costs for the Foundation so as to make more funds available for the Foundation's charitable activities. At the outset, I anticipate that the Foundation will need legal guidance in establishing itself as a non-profit corporation and in implementing the Foundation's goals in a manner consistent with applicable law. Would it be permissible for the son of Mr. Bertonazzi to provide free legal services to the Foundation?**

Yes. The receipt of such services by a charitable entity raises no issues under the campaign finance law.

You should contact the public charities division of the Attorney General's office, One Ashburton Place, Boston, 02108 (telephone 727-2200), to ensure compliance with the public charities law.

**4. In order to implement the Foundation's goal of recognizing excellence in achievement in Italian language study, the Committee anticipates that the recommendations of the Milford High School Italian language teacher will be reviewed by the Foundation board and selection committee. Mr. Bertonazzi's daughter is the only Italian language teacher at Milford High School. Is her participation in the information and recommendation process permissible under G.L. c. 55?**

No. Family members of the candidate may not be involved as principals of the Foundation. A "principal" is "one who has controlling authority or is in a leading position." See our original advisory opinion. Because the candidate's daughter would likely play a key role in the process of determining recipients of disbursements, she would be considered a principal of the Foundation. Information regarding qualifications of students could be derived from other sources, e.g., the foreign language department head or the local Italian-American organization.

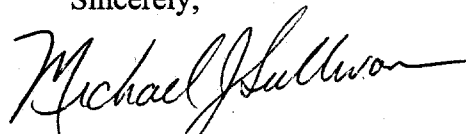
**5. Once the Foundation completes its review and decision-making process, the Foundation will be prepared to present the awards at an appropriate ceremony. I assume that it would be permissible for Mr. Bertonazzi and his family members to attend the ceremony and to participate in the presentations. I would appreciate your confirming this conclusion and identifying any other considerations that might relate to the propriety of the awards presentation under G.L. c. 55.**

Mr. Bertonazzi and his family members may attend the ceremony and participate in presenting awards. Such activity would be consistent with the campaign finance law. See AO-95-02.

This opinion is solely within the context of the campaign finance law and is provided on the basis of representations in your letter.

Please contact us if you have further questions regarding the campaign finance law.

Sincerely,

A handwritten signature in dark ink, appearing to read "Michael J. Sullivan", with a stylized, flowing script.

Michael J. Sullivan  
Director